

Defendant/Counter Plaintiff Caterpillar Inc. (“Caterpillar”) moves this Court for an Order permitting Caterpillar to file its Answer, Affirmative Defenses, Counterclaims and Jury Demand under seal. In support of this Motion, Caterpillar states:

1. Century Indemnity Company (as Successor to CCI Insurance Company) and Insurance Company of North America (collectively “Century”) filed its Complaint in this matter under seal because the Complaint includes claims for breach of a Settlement Agreement, Section 5 of which provides for confidentiality of that agreement’s terms. (Dkt. No. 28.)

2. In order to answer Century's Complaint, Caterpillar must quote the allegations in the under seal Complaint and refer to materials filed under seal.

3. Additionally, Caterpillar's Counterclaim refers to the confidential Settlement Agreement and materials filed under seal.

4. The express terms of the Settlement Agreement require that it be kept confidential. Specifically, Paragraph 5(a) requires, among other things, that if a party to the Settlement Agreement is required to disclose part or all of the terms of the Settlement Agreement in court papers, the party must request that any documents including or describing the Settlement Agreement be filed under seal or lodged in camera so as not to become part of the public record.

5. Accordingly, Caterpillar requests leave from the Court to file its Answer, Affirmative Defenses, Counterclaims and Jury Demand under seal.

6. In accordance with Local Rule 26.2(c), Caterpillar has filed both a public redacted version and unredacted provisionally filed under seal version its Answer, Affirmative Defenses, Counterclaims and Jury Demand.

WHEREFORE, Caterpillar respectfully requests that the Court grant Caterpillar leave to file its Answer, Affirmative Defenses, Counterclaims and Jury Demand under seal, and grant such other and further relief as justice may require.

Dated: November 11, 2015

Respectfully Submitted,

By: /s/ Anand C. Mathew

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**CERTIFICATE OF SERVICE**

I, Anand C. Mathew, an attorney, hereby certify that on November 11, 2015 I caused a copy of the foregoing to be served via CM/ECF upon all counsel of record.

/s/ Anand C. Mathew